



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7265-99

2 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 6 October 1994 at age 19. On 13 June 1995 you received nonjudicial punishment for the theft of a television set. The punishment imposed included a reduction in grade to PVT (E-1) and forfeitures of pay totaling \$854.

Based on the foregoing offense, you were processed for an administrative discharge due to commission of a serious offense. On 7 July 1995 you elected to waive your right to have your case heard by an administrative discharge board (ADB) in exchange for a recommendation for a general discharge. On 11 July 1995 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a general discharge. You were so discharged on 21 July 1995.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as the documentation you submitted showing that you have been a good citizen since discharge. The Board also considered the statement from a staff sergeant that you told him you took the blame for your brother, who actually took the television, and he believes you are being

truthful. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your admission that you committed a serious offense. The Board noted that the nonjudicial punishment evidence is routinely destroyed after two years and the facts and circumstances of the theft are unknown. The Board also noted that you waived the right to an ADB, your best opportunity to show that you did not steal the television set. Finally, the Board noted that it could not be certain from the record if you were lying then or are lying now. The Board believed that some mitigating factors must have been considered, since a discharge under other than honorable conditions was authorized but you were discharged under honorable conditions. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director